



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY-DOCKET NO.                  |
|-----------------|-------------|----------------------|--------------------------------------|
| 08/759,108      | 12/02/96    | QIN                  | <sup>mk</sup><br>ATTORNEY-DOCKET NO. |

JOHN R SCHENIAN  
KIMBERLY CLARK CORPORATION  
401 NORTH LAKE STREET  
NEENAH WI 54956

IM62/0804

REDDICK, J. N. EXAMINER

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| PT 13    | 24           |

08/04/00

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/759,108

Applicant(s)

QIN ET AL.

Examiner

Judy M. Reddick

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2000.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-34 is/are pending in the application.
- 4a) Of the above claim(s) 17-32 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-16 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

Art Unit: 1713

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-16 and 33 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over International WO'681 as per reasons set forth in the previous Office Action (paper no. 21, 11/23/99, paragraph no. 6). Further, it is reasonably presumed that the property values per the claimed invention may very well be met by the absorbent composition of WO'681 since the absorbent composition is essentially the same as and made under essentially the same conditions as applicants' absorbent composition. There is nothing viable on this record diffusing this issue.

### *Response to Arguments*

3. Applicant's arguments filed 05/24/00 have been fully considered but they are not persuasive.

~~Relative to use of the wrong statute~~---Counsel is thanked for bringing this obvious error to the Examiner's attention. The correct statute has been cited supra.

Art Unit: 1713

However, since the substance of the rejection is basically the same as the rejection of the previous Office Action (paper no. 21, 11/23/99) and Counsel has recognized the statute that the rejection should have been made under, this Office Action is properly being made Final. Citation of the wrong statute does not give Counsel the right to an extended prosecution. Refer to MPEP 706.07, 2<sup>nd</sup> column, lines 11-14.

**Relative to WO'681**—With all due respect to Counsel's opinion, the claimed invention is believed anticipated by patentee. The recited values per the instantly claimed invention, although not expressly recited per patentee, are believed to be, reasonably, met by patentee since the absorbent composition of patentee is essentially the same as and made in essentially the same manner as applicants' absorbent composition and there is nothing viable on this record diffusing this issue. The invitation to show that the absorbent composition of WO'681 did not meet the limitations of the claims was clearly extended to applicants in the previous Office Action.

#### ***Election/Restrictions***

4. Claims 17-32 and 34 remain withdrawn from consideration as per having been drawn to a non-elected invention.

#### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


Art Unit: 1713


mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy M. Reddick whose telephone number is (703)308-4346. The examiner can normally be reached on Monday-Friday, 6:30 a.m.-3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703)308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-5885 for regular communications and (703)305-5885 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-8183.

  
Judy M. Reddick  
Primary Examiner  
Art Unit 1713

JMR   
August 3, 2000